

**Effective 5/10/2016**

**32B-2-605 Operational requirements for package agency.**

- (1)
  - (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.
  - (b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.
  - (c)
    - (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.
    - (ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.
    - (iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.
    - (iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.
    - (v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.
- (2)
  - (a) A package agency shall be operated by an individual who is either:
    - (i) the package agent; or
    - (ii) an individual designated by the package agent.
  - (b) An individual who is a designee under this Subsection (2) shall be:
    - (i) an employee of the package agent; and
    - (ii) responsible for the operation of the package agency.
  - (c) The conduct of the designee is attributable to the package agent.
  - (d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.
  - (e) A package agent shall state the name and title of a designee on the application for a package agency.
  - (f) A package agent shall:
    - (i) inform the department of a proposed change in the individual designated to operate a package agency; and
    - (ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).
  - (g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.
- (3)
  - (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.
  - (b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:
    - (i) a header that reads: "WARNING";
    - (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

- (iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";
  - (iv) a header that reads: "WARNING"; and
  - (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."
- (c)
- (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).
  - (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.
- (d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.
- (4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.
- (5)
- (a) A package agency may not purchase liquor from a person except from the department.
  - (b) At the discretion of the department, liquor may be provided by the department to a package agency for sale on consignment.
- (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.
- (7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.
- (8) A package agency may not sell, offer for sale, or furnish liquor to:
- (a) a minor;
  - (b) a person actually, apparently, or obviously intoxicated;
  - (c) a known interdicted person; or
  - (d) a known habitual drunkard.
- (9)
- (a) A package agency may not employ a minor to handle liquor.
  - (b)
    - (i) Staff of a package agency may not:
      - (A) consume an alcoholic product on the premises of a package agency; or
      - (B) allow any person to consume an alcoholic product on the premises of a package agency.
    - (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.
- (10)
- (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:
    - (i) the package agency notifies the department in writing at least seven days before the closing; and
    - (ii) the closure or cessation of operation is first approved by the department.
  - (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.
  - (c)
    - (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

- (ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.
- (iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.
- (d) The notice required by Subsection (10)(a) shall include:
  - (i) the dates of closure or cessation of operation;
  - (ii) the reason for the closure or cessation of operation; and
  - (iii) the date on which the package agency will reopen or resume operation.
- (e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.
- (f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.
- (11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission.
- (12)
  - (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.
  - (b) A package agency has no monetary value for any type of disposition.
- (13)
  - (a) Subject to the other provisions of this Subsection (13):
    - (i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:
      - (A) on Sunday; or
      - (B) on a state or federal legal holiday.
    - (ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.
  - (b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:
    - (i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;
    - (ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:
      - (A) a full-service restaurant license;
      - (B) a limited-service restaurant license;
      - (C) a beer-only restaurant license; or
      - (D) dining club license;
    - (iii) the restaurant or dining club is located at the manufacturing facility;
    - (iv) the restaurant or dining club sells an alcoholic product produced at the manufacturing facility;
    - (v) the manufacturing facility:
      - (A) owns the restaurant or dining club; or
      - (B) operates the restaurant or dining club;
    - (vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and
    - (vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant or dining club.

- (c)
  - (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:
    - (A) a resort licensee; or
    - (B) a hotel licensee.
  - (ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."
- (14)
  - (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:
    - (i) 21 years of age or older; and
    - (ii) the minor's parent, legal guardian, or spouse.
  - (b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:
    - (i) ask the suspected minor for proof of age;
    - (ii) ask the person who accompanies the suspected minor for proof of age; and
    - (iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.
  - (c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).
  - (d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).
- (15)
  - (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.
  - (b) A person may not open a sealed container on the premises of a package agency.
  - (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:
    - (i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;
    - (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and
    - (iii) subject to:
      - (A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;
      - (B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and
      - (C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.
- (16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.
- (17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.
- (18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

Amended by Chapter 80, 2016 General Session